



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,670	01/27/2004	Nhiem Viet Nguyen	10499-210U1	9830

570 7590 05/06/2008
PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
----------	--------------

1794

MAIL DATE	DELIVERY MODE
-----------	---------------

05/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,670	Applicant(s) NGUYEN, NHIEM VIET	
	Examiner Drew E. Becker	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/27/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the first line of the specification should include the status of the parent application (ie Pat. No.).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al [Pat. No. 6,559,423] in view of Origane [Pat. No. 6,112,648] and Leung et al [Pat. No. 6,431,057].

Nguyen et al teach a method of gripping and centering food in a toaster by inserting the food onto a carriage positioned within the toasting compartment (Figure 3, #25 & 90), urging the carriage toward a toasting position (column 4, line 32), depositing the food onto a cage (Figure 4, #70), urging the carriage toward the food at the end of toasting to return it to the receiving position (column 4, line 48), and positioning the carriage near the base of the toaster to initiate the toasting cycle (column 4, line 39). Nguyen et al do not recite the gravitational force of the food (ie weight) causing the cage to grip and center the food. Origane teaches a method for toasting food by placing food in a toaster

Art Unit: 1794

and the downward gravitational force of the food at least partially causing the cage to cage to grip the food (Figures 3A-B, #14a-c). It would have been obvious to one of ordinary skill in the art to incorporate the food triggered cage engagement of Origane into the invention of Nguyen et al since both are directed to methods of toasting food, since Nguyen et al simply did not describe how the cage was triggered, since Nguyen et al teach the cage supporting the food during toasting (Figure 4, #70), and since the use of downward movement for triggering the cage was a commonly used method in toasters as shown by Origane. Leung et al teach a method for toasting food by letting the food fall by gravity to its toasting position (column 3, lines 1-12). It would have been obvious to one of ordinary skill in the art to incorporate the gravity-based lowering method of Leung et al into the method of Nguyen et al, in view of Origane, since all are directed to methods of toasting food, since Nguyen et al simply did not describe how the cage was triggered, since Nguyen et al teach the cage supporting the food during toasting (Figure 4, #70), since Origane taught that cages are commonly triggered by downward movement of the food (Figures 3A-B, #14a-c), and since the gravity-based lowering of Leung et al eliminated the need for stiff springs (column 1, lines 21-31) which can be difficult to operate.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nguyen [Pat. No. 6,708,602], Mosby et al [Pat. No. 4,656,927], Wales [Pat. No. 2,387,817], Avery et al [Pat. No. 1,939,247], and Eagle [Pat. No. 3,869,970] teach methods of toasting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/
Primary Examiner, Art Unit 1794